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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/025,237 | 12/19/2001 | Andrew Paul Chapple | C7592(V) | 7388 |

201 7590 09/04/2003

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER

KUMAR, PREETI

| | |
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| ART UNIT | PAPER NUMBER |
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1751

DATE MAILED: 09/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,237

Applicant(s)

CHAPPLE ET AL.

Examiner

Pr eti Kumar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Claims 1-16 are pending.
2. The rejection of claims 1-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Beggs et al. (US 6,218,350) is withdrawn in light of applicants filing of a statement of common ownership submitted after final rejection on August 1, 2003.
3. In view of the new prior art found on updating the search, the prosecution in this case is re-opened and Ex parte Prosecution is resumed.

New Grounds of Rejection

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-16 are rejected under 35 U.S.C. 103(a) as obvious over Kvietok et al. (US 5,445,747).

Kvietok et al. teach fabric softening compositions comprising fabric softening active(s), preferably cationic and/or nonionic fabric softening actives; cellulase; and an effective amount of perfume comprising certain selected ingredients and being substantially free of other specific perfume ingredients, to cover an off-odor that occurs on fabric treated with said softening compositions. The compositions preferably have a low pH and can also contain free radical scavenging antioxidant material and/or chelant to stabilize the cellulase. See abstract.

Regarding the antibody granule, Kvietok et al. teach that the cellulase added to the composition can be in the form of a non-dusting granulate, or in the form of a liquid. See col.2, ln.40-47. Kvietok et al. teach a cellulase preparation consisting essentially of a homogeneous endoglucanase component, which is immunoreactive with an antibody raised against a highly purified 43 kD cellulase derived from *Humicola insolens*, DSM 1800, or which is homologous to said 43 kD endoglucanase. See col.2, ln.55-63.

Regarding the alkali metal salt and claims 3 and 13, Kvietok et al. teach examples of suitable salts are the halides of the Group IA and IIA metals of the Periodic Table of the Elements, e.g., calcium chloride, magnesium chloride, sodium chloride, potassium bromide, and lithium chloride. The ionizable salts are particularly useful during the process of mixing the ingredients to make the compositions herein, and later to obtain the desired viscosity. The amount of ionizable salts used depends on the amount of active ingredients used in the compositions and can be adjusted according to the desires of the formulator. Typical levels of salts used to control the composition

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viscosity are from about 20 to about 20,000 parts per million (ppm), preferably from about 20 to about 11,000 ppm, by weight of the composition. See col.21, ln.17-22.

Regarding claims 12 and 16, Kvietok et al. teach that the formulation of fabric softening compositions can be accomplished over the entire typical pH range of fabric softening agents, including pH of 5 to 7 for traditional fabric softening actives, while achieving both effectiveness and fabric safety benefits following prolonged storage. See col.1, ln.50-55.

Regarding claims 11 and 15, Kvietok et al. teach mixing a salt with a cellulase enzyme at a temperature of about 89 degrees C. See col.23, Example I Process.

Regarding claims 4, 7-9, Kvietok et al. teach the utility of soil release polymers, bacteriocides, colorants, perfumes, preservatives, optical brighteners, anti ionization agents, antifoam agents, and the like. See col.21, ln.60-64.

Kvietok et al. are silent as to the specified chemical equilibrium constants as recited by the instant claims.

However, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to formulate a granule comprising an antibody having the specified chemical equilibrium constants as recited by the instant claims, with a reasonable expectation of success because the teachings of Kvietok et al. suggest an antibody granulate combined with a salt, and furthermore, it would be expected to have similar equilibrium constants for the similar antibodies as taught in the prior art since, Kvietok et al. teach a pH range that is encompassed by the material limitations of the instant claims.

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Conclusion


7. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.

8. Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 703-305-0178. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 703-308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-872-9309.


YOGENDRA N. GUPTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Preeti Kumar
Examiner
Art Unit 1751

PK